



State of Washington
Department of Revenue

Excise Tax Advisory

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SALES OF NATURAL GAS TRANSPORTED FROM ORIGINS WITHOUT THE STATE TO POINTS WITHIN THE STATE

Issued September 23, 1966

Where a natural gas company transports gas through its own pipelines from origins without the state to points within the state and transfers possession of said gas to customers in this state, is the Public Utility Tax applicable?

The taxpayer, an out-of-state gas distributing company, conducted business in Washington which consisted primarily of distributing natural gas to natural gas companies which, in turn, distributed the gas to its customers for resale. In addition to these sales, the taxpayer made direct sales of natural gas to certain customers in Washington who used the gas for the production of heat in industrial processes; this gas was not resold either as such or as an ingredient or component part of an article produced for sale. The taxpayer was assessed a Public Utility Tax on the amounts derived from the above transactions. The taxpayer contended, however, that the tax was inapplicable because of the interstate character of the transactions between it and its customers. The natural gas was transported by the taxpayer from points without the state to points within the state through the use of its own pipeline facilities.

As to the income from sales of gas for resale to consumers in Washington, the Tax Commission held that the taxpayer was exempt from the Public Utility Tax by virtue of RCW 82.16.050(2) which allowed a deduction for

"Amounts derived from the sale of commodities to persons in the same public service business as the seller for resale as such within the state"

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The Commission, however, ruled that the income from sales of natural gas to industrial concerns, which did not resell the gas, was subject to the Public Utility Tax under the classification "Gas

Distribution." The taxable event, i.e., the distribution and sale of gas, occurred locally and a tax thereon was not prohibited by the commerce clause of the Federal constitution.

The facts of the transactions between the taxpayer and the industrial concerns supported the above conclusion. While the natural gas was transported by the taxpayer from origins without the state to points within the state through its own pipeline facilities, no transfer of possession or sale occurred until the gas was metered and pumped into the facilities of the purchaser, events which were wholly within the state. The sales or services upon which the Public Utility Tax was imposed did not constitute interstate commerce. The industrial concerns were only interested in securing a natural gas supply at the time and in the quantity needed and this they secured from a source of supply which was in the vendor's possession in Washington. (Letter.)